



Broadcasting Decision CRTC 2013-401

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Route reference: 2013-220

Ottawa, 14 August 2013

Maritime Broadcasting System Limited

Charlottetown, Prince Edward Island and Moncton, New Brunswick

Applications 2012-0258-0, 2012-0257-2 and 2012-0267-1, received 7 March 2012

CFCY-FM Charlottetown and CKCW-FM and CHOY-FM Moncton – Licence renewals

*The Commission **renews** the broadcasting licences for the commercial radio stations CFCY-FM Charlottetown, Prince Edward Island and CKCW-FM Moncton, New Brunswick, from 1 September 2013 to 31 August 2020.*

*The Commission also **renews** the broadcasting licence for the commercial radio station CHOY-FM Moncton from 1 September 2013 to 31 August 2016. This short-term renewal will allow for an earlier review of the licensee's compliance with its conditions of licence and regulatory requirements.*

Introduction

1. Maritime Broadcasting System Limited (Maritime) filed applications to renew the broadcasting licences for the English-language commercial radio stations CFCY-FM Charlottetown, Prince Edward Island and CKCW-FM and CHOY-FM Moncton, New Brunswick, which expire 31 August 2013.¹
2. With respect to CFCY-FM, the Commission received an intervention from the Prince Edward Island Office of Public Safety relating to the participation of the station in the National Public Alerting System (NPAS). The public record for this application can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
3. As specified in its three-year plan, the Commission will be looking at measures to ensure the participation of Canadian broadcasters and telecommunications service providers in the NPAS. Therefore, the Commission will not impose conditions of licence requiring the participation of broadcasters in the NPAS at this time. However, the Commission expects all licensees to voluntarily participate in the NPAS so that Canadians receive timely warnings of imminent perils.

¹ The original expiry date for these broadcasting licences was 31 August 2012. The licences were administratively renewed until 31 August 2013 as a result of Broadcasting Decision 2012-434.

Non-compliance

CFCY-FM

4. In Broadcasting Notice of Consultation 2013-220 (the Notice), the Commission indicated that the licensee may have failed to comply with its condition of licence for CFCY-FM relating to Canadian talent development (CTD) contributions for the 2005-2006 broadcast year.
5. CFCY-FM began operating on the FM band in July 2006 and should have made a pro-rated CTD payment of \$1,190 for the 2005-2006 broadcast year. However, no contributions were made. The licensee indicated that it believed that it did not have to make a pro-rated payment in 2005-2006, its first year of operations, but could begin making CTD payments in the following broadcast year as long as the total amount was paid over seven years.
6. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence relating to CTD for the 2005-2006 broadcast year.

CKCW-FM

7. In the Notice, the Commission indicated that the licensee may have failed to comply with its condition of licence relating to CTD contributions for CKCW-FM for the 2005-2006 and 2006-2007 broadcast years. In particular, it failed to make any of its contributions required over and above the basic contribution under the CAB plan in those broadcast years.
8. The licensee claimed that it was unaware that the condition of licence from its previous licence term requiring it to devote the additional amount of \$28,000 per broadcast year to CTD still applied, resulting in shortfalls totaling \$56,000.
9. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence relating to CTD for the 2005-2006 and 2006-2007 broadcast years.

CHOY-FM

10. Finally, in the Notice, the Commission indicated that the licensee may have failed to comply with its condition of licence relating to CTD contributions for CHOY-FM for the 2005-2006 and 2007-2008 broadcast years.
11. When CHOY-FM's licence was renewed in Broadcasting Decision 2005-358, the Commission imposed a condition of licence whereby Maritime was required to make CTD contributions of \$22,000 annually to a talent contest until the amount of \$154,000 was paid.² At that time, the incurred shortfalls amounted to \$20,162 while the remainder of the scheduled payments amounted to \$55,000 for a total outstanding amount of \$75,162.

² This amount stemmed from Decision 2000-361, the station's licensing decision.

12. The licensee did not make sufficient contributions in the 2005-2006 and 2007-2008 broadcast years to meet this requirement. In particular, no payments were made in 2005-2006 and only \$2,000 was paid in 2007-2008. The licensee explained that the shortfall resulted from confusion relating to its required contributions following the transfer of control and shares from Radio Diffusion Acadie Inc. The licensee acknowledged the shortfall and proposed to direct its payments to eligible CCD initiatives.³
13. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence relating to CTD for the 2005-2006 and 2007-2008 broadcast years.

Regulatory measures

14. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to non-compliance by radio stations. Specifically, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also indicated that it would consider the circumstances of the non-compliance, the arguments provided by the licensee and the measures taken to rectify the situation.
15. The Commission considers that initiatives relating to the development of Canadian content and talent will not only help to develop and advance the careers of emerging Canadian artists but will increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. Accordingly, it is important that radio licensees make their required contributions to the development of Canadian content and talent.

CFCY-FM

16. The Commission notes the licensee's explanation with respect to CFCY-FM's non-compliance and that the licensee has since provided proof of payment demonstrating that all of CFCY-FM's CTD requirements set out in Broadcasting Decision 2006-89 have been paid in full as of 31 August 2012. Given the circumstances surrounding the licensee's non-compliance, the Commission considers it appropriate to grant a full-term renewal to this station.

CKCW-FM

17. The Commission notes the licensee's explanation with respect to CKCW-FM's non-compliance and that the licensee realized on its own that there was a shortfall totaling \$56,000 and that it paid it through additional payments in 2008 and 2009. Given the circumstances surrounding the licensee's non-compliance, the Commission considers it appropriate to grant a full-term renewal to this station.

³ In Broadcasting Public Notice 2006-158, the Commission replaced the CTD regime with the CCD regime.

CHOY-FM

18. The Commission notes the licensee's explanation with respect to CHOY-FM's non-compliance. However, there is still a shortfall with respect to the licensee's CTD contributions for CHOY-FM. The Commission notes that the licensee made an overpayment in the 2006-2007 broadcast year, thereby reducing the overall shortfall to \$36,822.
19. The Commission therefore considers that the appropriate measure is a three-year short-term renewal, the length of which reflects the nature and extent of the non-compliance.
20. Given the difficulties in expending the outstanding amounts on an annual talent contest in a short amount of time, the licensee proposed to expend the shortfall on other eligible CCD initiatives. The Commission considers this a reasonable proposal and will impose a condition of licence requiring the licensee to expend the total shortfall on eligible CCD initiatives within **90 days of the date of this decision**.

Conclusion

21. In light of all of the above, the Commission **renews** the broadcasting licences for the English-language commercial radio programming undertakings CFCY-FM Charlottetown, Prince Edward Island and CKCW-FM Moncton, New Brunswick, from 1 September 2013 to 31 August 2020. The licensee shall adhere to the **conditions of licence** set out in Broadcasting Regulatory Policy 2009-62, as amended from time to time.
22. In addition, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CHOY-FM Moncton from 1 September 2013 to 31 August 2016. The terms and **conditions of licence** are set out in the appendix to this decision.
23. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory requirements. The short-term renewal granted in this decision to CHOY-FM will allow for an earlier review of the licensee's compliance with its conditions of licence and regulatory requirements.

Reminder

24. Pursuant to section 22 of the *Broadcasting Act*, the Commission reminds the licensee that the broadcasting licences will cease to have any force or effect if the broadcasting certificates issued by the Department of Industry lapses

Employment equity

25. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2013-220, 7 May 2013
- *Administrative renewals*, Broadcasting Decision CRTC 2012-434, 8 August 2012
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CFCY Charlottetown – Conversion to the FM band*, Broadcasting Decision CRTC 2006-89, 24 March 2006
- *CHOY-FM Moncton – Licence renewal*, Broadcasting Decision CRTC 2005-358, 29 July 2005
- *New commercial French-language FM radio service in Moncton*, Decision CRTC 2000-361, 24 August 2000

**This decision is to be appended to each licence.*

Appendix to Broadcasting Decision CRTC 2013-401

Terms and conditions of licence for the commercial radio programming undertaking CHOY-FM Moncton, New Brunswick

Terms

The licence will expire 31 August 2016.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as amended from time to time.
2. The licensee shall expend the total shortfall amount of \$36,822 to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, and provide proof of this payment (e.g. cancelled cheque) within **90 days of the date of this decision**.